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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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In the Matter of)
Sprint Petition for Declaratory Ruling)
Obligation of Incumbent LECs to Load)
Numbering Resources Lawfully Acquired)
and to Honor Routing and Rating Points)
Designated by Interconnecting Carriers)

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**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**

CC Docket No 01-92

SPRINT PETITION FOR DECLARATORY RULING

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SPRINT PETITION FOR DECLARATORY RULING

Sprint Corporation, on behalf of its wireless division (“Sprint”), petitions **the** Commission to enter a declaratory ruling to confirm that an incumbent local exchange carrier (“ILEC”) may not refuse to load in its network telephone numbering **resources** that an interconnecting carrier acquires in compliance with the Commission’s numbering **rules** and may not refuse to honor the routing and rating points that an interconnecting carrier designates for its **numbering** resources.’

I. INTRODUCTION AND SUMMARY

Our Public Switched Telephone Network (“PSTN”), **a** network of hundreds of different interconnected networks, works because all interconnecting **carriers** follow the **same rules**, or conventions, in **the** rating and routing **of** traffic. Perhaps the most important convention is that

¹ The FCC is empowered to issue a declaratory ruling to “**terminate a** controversy.” 5 U.S.C. § 554(e). *See also* 47 C.F.R. § 1.2. **There** certainly **exists** a controversy with **BellSouth** that **the** FCC can resolve with a declaratory ruling. Sprint acknowledges that it could **file a** complaint against BellSouth concerning the matters raised in this petition. But **given the** importance of **the issue** to the PSTN and because BellSouth **has** taken **the same** position with other carriers, it would appear **most** judicious for **the** FCC to address the **issue in** a non-restricted proceeding, so all **affected** carriers **have** a meaningful opportunity to comment and participate.

carriers timely load in their networks numbering resources obtained by other carriers using the rating and routing points that the holder of the numbering resources has designated. There would *be* chaos if even a handful of carriers chose not to load another carrier's telephone numbers or to honor the designated rating and routing points associated with those numbers.

BellSouth Telecommunications, Inc. ("BellSouth") **has** departed from the industry **con-**vention (and its own past practice) by not honoring the routing and rating points designated by other carriers. Specifically, BellSouth has refused to load NPA-NXX **codes** that Sprint PCS ("Sprint") has lawfully **acquired** because the routing and rating points **for** the codes were not the same – a refusal that **has** had the effect of delaying Sprint's entry into new markets. According to BellSouth Sprint should be required to interconnect directly with other, third party carriers – even though Sprint cannot cost justify direct interconnection with the third-party carrier networks. Importantly, this **issue** is not limited to Sprint. Other wireless operators, such as Nextel and Triton PCS, **are** also threatened by **this** new BellSouth policy.

In addition to the above, BellSouth notified Sprint that it should "correct" existing interconnection arrangements with non-BellSouth ILECs located in North Carolina, South Carolina and Florida by June **8, 2002**. The implication of this BellSouth-imposed deadline **is** that if Sprint does not make these changes by June 8, 2002, BellSouth will stop routing calls to Sprint where the rating and routing points do not match and where the rating point is associated with a rate center established by an ILEC other than BellSouth. If BellSouth stops routing these calls, Sprint customers with these telephone numbers will no longer receive any calls – unless Sprint installs before June 8, 2002 a direct connection to each of these small ILECs.

The PSTN could be jeopardized if each carrier – and an **ILEC** in particular – is allowed to determine unilaterally whether it will load another carrier's numbering resources and if **so**, how

it will route and rate calls to other *carriers*. BellSouth's departure from industry convention is based upon a tariff filed in 1995, but not raised **as** an issue until **2001**. It is unclear how activity that BellSouth deemed permissible for six years (**1995-2001**) suddenly became unlawful. **The** actual dispute appears to **be** based upon the limitations **of** BellSouth's billing **systems**, not any regulatory prohibition.

BellSouth's position, if adopted, would 1) increase costs for all telecommunications carriers, including BellSouth, and would **increase** dramatically the probability that calls successfully completed today will not be completed **in the future**; 2) would inhibit the ability of CMRS carriers to provide their services in rural **areas**; and 3) would preclude BellSouth's own customers from calling certain Sprint customers – **even** though BellSouth customers **can** successfully reach **these** Sprint customers today.

The matters raised in this petition deserve the Commission's immediate attention.

II. **BACKGROUND FACTS**

A. **CALL RATING AND ROUTING IN THE PUBLIC SWITCHED TELEPHONE NETWORK GENERALLY**

The Commission has established **rules** governing **the** circumstances when a carrier may obtain numbering resources – whether an NXX code for non-pooling carriers or a thousands-block for pooling carriers? Commission **rules** specifically permit carriers to obtain telephone numbers associated with a particular "rate center." ILECs have established rate centers in order to determine whether their customer's calls should be rated **as** local or toll.⁴ Generally, an ILEC

² See 47 C.F.R. § 52.15(g).

³ See *id.* at § 52.15(g)(3).

⁴ See *Second NRO Order*, 16 FCC Rcd 306,366 ¶ 144 (2000) ("The rate center system was established in the 1940s primarily to facilitate the routing and billing of telephone calls. Carriers typically need numbering resources in multiple rate centers to establish a footprint in a particular geographic area.").

rates a landline call originating and terminating in the same **rate** center **as** local, while a call **be-**
tween rate centers is treated as a toll call? Competitive carriers need access to telephone num-
bers in ILEC rate centers **so** they can offer a local calling area comparable to that provided by
ILECs to their own customers.

The application form that **NANPA** has developed requires applicants for **an** NXX code or
a thousands block to designate **the** rate center to which **the** new code/block will be **associated**.⁶
The application form also requires **the** applicant **to** designate relevant routing information so
other carriers will know how to route calls destined to customers with telephone numbers con-
taining the new **NXX** code or thousands block. **This** routing information includes the identity of
the applicant's serving switch and the **LATA** tandem switch serving the applicant's end **office**
switch **or** mobile switching center ("MSC").⁷ **The** **LATA** tandem switch information is impor-
tant because few carriers interconnect directly with each other. **If** there is no direct connection
with the destination **carrier**, the **originating** carrier will route a call **via** the designated **LATA** tan-
dem switch, which is generally operated by a Regional Bell Operating Company ("RBOC").
The tandem switch then forwards the call to **the** subtending switch operated by **the** destination
carrier **so** **the** call can be forwarded to the person being called.

As BellSouth has noted, once a carrier obtains an NXX code, it "must tell the world how
to route and rate calls to its newly assigned **NXX** code":

[O]nce **the** industry is made aware that a **carrier** has a new NXX code, each carrier
must take whatever steps may **be** necessary within individual networks to recog-

⁵ An ILEC's practice of **using** rate centers to **rate** its calls **as** local **or** toll **for** purposes of billing its own
customers should not be confused with **the** rules governing intercarrier reciprocal compensation. *See* 47
C.F.R. § 51.701(b)(2)(MTA boundaries used to **determine** the applicability of reciprocal compensation to
LEC-CMRS traffic).

⁶ **See** Central Office Code (NXX) Assignment **Request - Part** 1, § 1.2 (revised Sept. 24, 2001).

⁷ *See id.*

nize and accurately route the **new** NXX code. . . . [I]ndustry has responsibility for recognizing and routing (or “opening” or “activating”) the new code through the public switched telephone **network** (PSTN).⁸

Industry guidelines recognize that the rating and routing points may not be the **same** (e.g., a call may be routed to a switch physically located in one rate center but rated in **another** rate center).⁹ For example, a provider of commercial mobile radio services (“CMRS”) often has a single MSC that supports service in a large geographic area (which may encompass several dozen ILEC rate centers – and even several states). A CMRS carrier will generally interconnect its MSC directly with the RBOC tandem switch (known as Type 2A interconnection), and most incoming traffic destined to the CMRS carrier is routed through **this** tandem switch. Although the routing point for most land-to-mobile calls is **the** RBOC tandem, CMRS carriers **often** have multiple NXX codes rated in different rate centers to support local calling similar to that available with landline **calls**.¹⁰

B. BELL SOUTH’S REFUSAL TO LOAD CERTAIN SPRINT NXX CODES IN ITS TANDEM SWITCHES

Sprint continues to expand the coverage of its PCS network. As it enters a new area, it often obtains an NXX code rated in the predominate **ILEC** rate center **in** the area (so landline customers do not incur toll charges in calling **Sprint** customers). BellSouth historically followed

⁸ BellSouth Response to Request for Information, Docket No. **96-98**, at **2-3** (Aug. **19, 1997**). Industry notification is accomplished through Telcordia’s Business Integrated Routing and Rating Database System (“BIRRDs”), which contains data identifying information concerning “the routing and rating of calls.” CO Guidelines at § 6.2.1 and § **14**.

⁹ See Central Office Code (NXX) Assignment Guidelines, **INC 95-0407-008**, at § 6.2.2 (Jan. **7, 2002**) (“Each switching center, each rate center and each **POI** may have unique V&H coordinates.”)(hereinafter, “CO Guidelines”).

¹⁰ As the Commission has noted, “to enable the rating of incoming **wireline** calls as local, wireless carriers typically associate NXXs with wireline rate centers that cover either the business or residence of end-users.” *NRO NPRM*, **14** FCC Rcd 10322, 10371 n.174 (1999). See also *First NRO Order*, **15** FCC Rcd

the industry convention by loading in its tandem switches the **NXX** codes that Sprint had obtained, including when the rating and routing points for a code were not the **same**.

Beginning in the spring of 2001, however, BellSouth suddenly stopped loading **in** its tandem switches new Sprint codes where the rating and routing points were different and where the code was rated in an “independent” **ILEC** rate center.” (BellSouth continued to load Sprint codes with different rating and routing points so long **as** the rating point was associated with a BellSouth rate center.) Extended discussion between the parties proved fruitless, even though BellSouth readily acknowledged that Sprint “ha[s] the right to define the rating and routing centers for that **NPA/NXX**.”¹² According to BellSouth, its past practice (and the industry convention) caused it and the independent ILEC “to violate regulations under which they operate,” although BellSouth did not identify these “regulations.”

BellSouth formalized its new policy on January 30, 2002, when it issued a Carrier Notification to “all telecommunications **carriers** operating in BellSouth Telecommunications, Inc. service areas”:

BellSouth will not support activation of **NPA/NXX** applications where the rate center is **in** a company other than BellSouth and the routing center is in BellSouth. **This position is applied uniformly across all telecommunications carrier mar-**
kets.¹⁴

7574, 7577 n.2 (2000)(“A carrier **must obtain** a central office code for each rate center in which it provides service in a given area code.”).

¹¹ See, e.g., Letter **from** Bill Pruitt, Sprint, to Randy **Ham**, BellSouth (June 8, 2001), *appended as* Exhibit A.

¹² See Letter from Randy Ham, BellSouth, to Bill Pruitt, Sprint, at 1 (July 11, 2001), *appended as* Exhibit B.

¹³ See *id.*

¹⁴ BellSouth Interconnection Services, Carrier Notification SN91082844 (Jan. 30, 2002), *appended as* Exhibit C.

Several weeks later, on March 4, 2002, Nextel and Triton PCS opposed BellSouth's Section 271 petition involving Georgia and Louisiana because of BellSouth's refusal to load certain of their NXX codes." Two weeks later, on March 20, 2002, BellSouth announced that it was "revising" its **position**.¹⁶ BellSouth stated that under its "revised" policy, it "will process the code memorandum request, while at the same time raising the issue with the appropriate state commission for determination."¹⁷ As discussed below, the Commission **has** preempted states in this area, at least for traffic involving CMRS carriers, so BellSouth's proposed remedy – re-litigate the identical issue in nine different states – is not an option.

It is important for the Commission to understand the consequences of BellSouth's position, and the "right," or "power," BellSouth claims to possess. Most rural **carriers** do not exchange sufficient traffic volumes with Sprint to justify a direct connection to Sprint's MSCs. If a third-party carrier has a call destined to Sprint, it will ordinarily route the call to the LATA tandem switch, which will forward the **call** to Sprint over the Type 2A facilities connecting the tandem and **the** MSC.

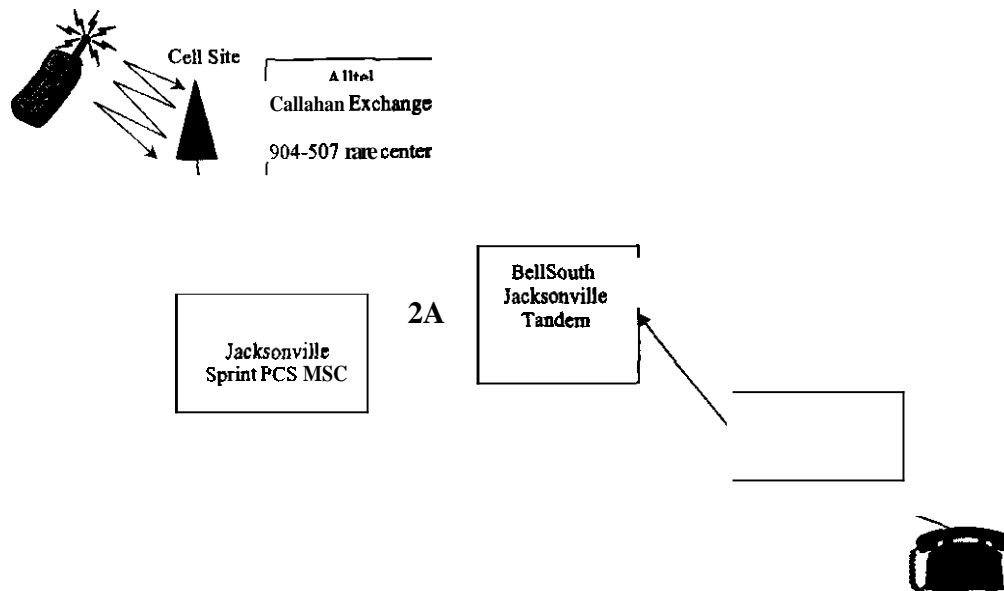
BellSouth now takes the position that it will no longer deliver to Sprint certain calls destined to Sprint but will instead route **these** calls to another ILEC that has **no involvement in** the call. BellSouth's new position is perhaps best understood with a specific example. Sprint provides its PCS services in ALLTEL's **Callahan** exchange, which is northwest of Jacksonville, Florida. Sprint has obtained the 904-507 code so it **can** provide its services to residents of the

¹⁵ See Nextel Opposition, Docket No. 02-35 (March 4, 2002); Triton PCS Opposition, Docket No. 02-35 (March 4, 2002).

¹⁶ See BellSouth Interconnection **Services**, Revised Carrier Notification SN91082947 (March 20, 2002), **appended as** Exhibit D

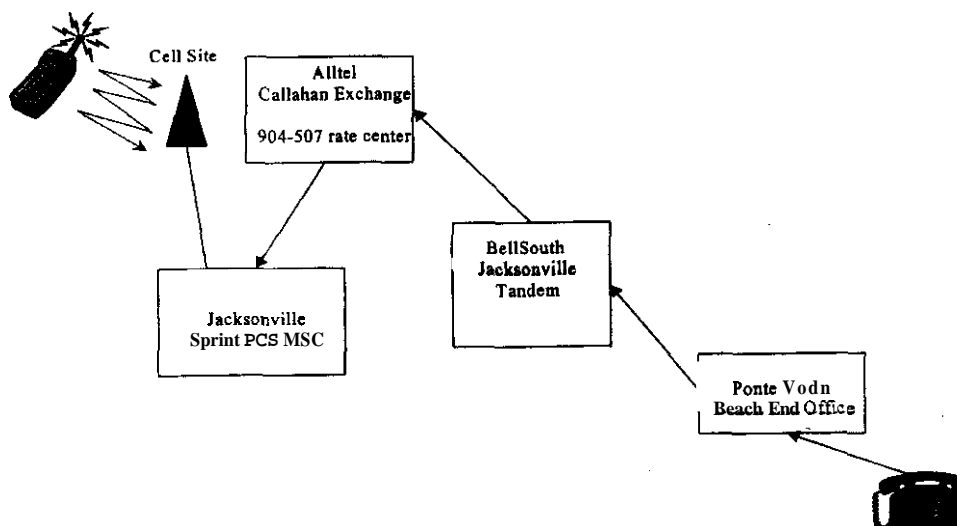
¹⁷ BellSouth Interconnection Services, **Revised** Carrier Notification SN91082844 (March 20, 2002), **appended as** Exhibit E.

Callahan exchange – that is, *this* 507 code is rated in the Callahan exchange. Assume a BellSouth customer in Ponte Vedra Beach, Florida, also located in the 904 NPA, calls a Sprint customer with a number rated in the ~~Callahan~~ exchange. BellSouth today ~~transports~~ the call from its Ponte Vedra Beach end office to its tandem switch in Jacksonville, where it switches ~~the~~ call to the Type 2A trunk group to Sprint MSC in Jacksonville. ~~The~~ call routing used today is reflected in the following diagram:



According to BellSouth's "new" and "revised" interconnection policy, because the Sprint 904-507 code **is** rated in the Callahan exchange, BellSouth's tandem switch should instead route the call to ALLTEL's end office switch in Callahan – even though no **ALLTEL** customer is involved

in the call. According to BellSouth, if Sprint wants to receive **this** BellSouth call, Sprint must interconnect directly with ALLTEL's switch in Callahan. The call **routing** that BellSouth is demanding is reflected in the following **diagram**:



BellSouth is proposing to add a new carrier to the call **routing** process (ALLTEL in the example) that as the previous diagram demonstrates, is not necessary for call completion."

BellSouth is thus claiming the authority to determine how Sprint must interconnect with other carriers (here, ALLTEL). According to BellSouth, if Sprint wants to provide its services in ALLTEL's Callahan exchange, it must **interconnect** directly with ALLTEL in Callahan – at least if Sprint wants its customers to receive **any** calls. In short, BellSouth claims a right to control Sprint's **entry** into a non-BellSouth market.

**C. BELL SOUTH'S THREAT TO REROUTE TRAFFIC DESTINED TO SPRINT
BEGINNING JUNE 8, 2002**

BellSouth's position had been limited to newly acquired NXX codes (*e.g.*, it refused to load Sprint codes that Sprint rated in rate centers established by non-BellSouth ILECs). BellSouth never intimated that it would change the routing of NXX codes that it had already loaded in its tandem switches. However, on March 8, 2002, BellSouth advised Sprint:

BellSouth will not support activation of NPA/NXX applications **as** described above and in our Carrier Notification. **The** current [Sprint PCS] configurations in Beaufort, SC, Mars Hill, NC, **Stark** FL and others should be corrected no later than June 8, 2002.¹⁹

BellSouth did not identify the "corrective action" it expects Sprint to take. It is nonetheless clear effective June 8, 2002, BellSouth intends to stop routing to Sprint over its Type 2A interconnection facilities calls that are rated in the identified **non-BellSouth** rate centers and will instead route the calls to the ILECs that have established the rate centers.

It is again important for the Commission to understand the consequences if BellSouth acts on its threat. Assume the example above: **A** BellSouth customer in Ponte Vedra Beach calls a Sprint customer having a number rated in ALLTEL's Callahan exchange. Today, BellSouth routes the call from its Ponte Vedra Beach switch to its LATA tandem switch, where the call **is** switched to the Sprint Type 2A interconnection facilities so the call can be delivered to Sprint's MSC for completion. *See* Diagram 1 above. According to BellSouth, effective June 8, 2002 BellSouth will instead route the call to ALLTEL's end **office** switch in Callahan. *See* Diagram 2 above.

¹⁸ BellSouth would effectively **require** ALLTEL's end office switch to function **as** a tandem switch.

¹⁹ Email from BellSouth to Sprint (March 8, 2002).

ALLTEL, of course, is not expecting to be involved in this call since the call is limited to customers of BellSouth and Sprint. ALLTEL and Sprint do not interconnect directly because they do not exchange a sufficient volume of traffic to cost-justify a dedicated facility connecting their respective switches. One option would be for Sprint to install a dedicated facility to ALLTEL's Callahan switch, despite the fact that ALLTEL and Sprint have determined that such a facility cannot be cost justified. If Sprint does not install this unnecessary facility, one of two things will happen on June 8, 2002:

1. The call will immediately drop because ALLTEL is not expecting to be involved in calls not involving its own customers; or
2. ALLTEL could route the call attempt back to the BellSouth's tandem (because its routing tables are written to send all calls to Sprint to the BellSouth LATA tandem). Presumably, BellSouth's tandem would then return the call attempt to ALLTEL (because its routing tables would be revised to deliver all calls rated in the Callahan exchange to ALLTEL's switch). Presumably, the call would continue to bounce between the BellSouth tandem and ALLTEL's end office switch until the caller abandons the call attempt.

Either way, calls to Sprint that are successfully completed today will not be completed after June 8, 2002, because of BellSouth's change in routing.

The example above involves a BellSouth customer calling a Sprint customer. However, the same result will occur with calls originating on other networks (e.g., interstate calls destined to a Sprint customer having a telephone number rated in ALLTEL's Callahan exchange).

D. BELL SOUTH'S STATED EXPLANATION FOR ITS NEW POLICY

BellSouth has provided no reasonable justification for adopting its new policy. This new policy would have little or no impact on use of its tandem switch. Calls destined to Sprint in a given area would continue to be routed to BellSouth's tandem switch; BellSouth would only change the routing of calls once they reach its tandem switch (from the destination carrier to a new intermediary carrier). Its proposal increases the risk that customers – including its own

customers – will be unable to successfully complete their call attempts. What BellSouth’s position does do is needlessly involve additional carriers in the call routing process and impose additional costs on other carriers (effectively forcing other carriers to interconnect directly with each other). The only rational explanation for BellSouth’s position is that BellSouth hopes to obtain a cost advantage in the market – not by becoming more efficient, but by increasing the costs incurred by other carriers.

BellSouth initially refused to provide any explanation for its new policy other than to say that its past practice “violate[d] state commission regulations.”²⁰ BellSouth later told Sprint that its new policy is based on a state tariff it filed in 1995 (although BellSouth has still not explained how activity it deemed permissible between 1995 and 2000 suddenly became impermissible in 2001). In recent weeks, BellSouth has begun to advance a second argument in defense.

(a) BellSouth’s State Tariff Defense. BellSouth has told Sprint that the historical practice of establishing a routing point in one area (served by BellSouth) but the rating point in another area (served by an ILEC other than BellSouth) violates the “virtual designated exchange” tariffs that BellSouth filed in 1995. BellSouth has, however, been more cautious in making this same point to the Commission:

BellSouth is also *concerned* that the CMRS providers’ use of these “virtual NXX” designations *may be* inconsistent with limitations contained in BellSouth’s tariffs?”

BellSouth’s concern over compliance with state tariffs it prepared and filed is not credible given that BellSouth did not become “concerned” until 2001, six years after it filed its “virtual designated exchange” tariffs.

²⁰ See Exhibits B, C and E.

²¹ BellSouth Ex Parte Letter, Docket No. 02-35, at 2 (March 20, 2002)(emphasis added).

More importantly, Sprint does not use “virtual” NXX codes. The Commission has defined “virtual” codes as those that “correspond with a particular geographic area that are assigned to a customer located in a different geographic area.”²² Sprint obtains NXX codes only in areas where it has facilities and provides services to customers. There is nothing “virtual” about Sprint’s provision of services in areas where it obtains NXX codes.

BellSouth’s assertion that “state commission regulations” preclude it from honoring NXX codes with different rating and routing points is incorrect.²³ Not only are there no such “state commission regulations,” but Sprint is unaware of a single state commission adopting a policy disfavoring the long-standing industry practice. For example, Sprint’s ILEC, Sprint-Florida, once had state tariffs similar to BellSouth’s tariffs. Sprint-Florida proposed to remove the restrictions that BellSouth now relies upon, and the Florida Commission approved this tariff revision. This action confirms whatever tariff restrictions BellSouth is relying upon are not restrictions imposed by the Florida Commission.

In the end, it would appear that BellSouth’s state tariff defense is nothing more (and nothing less) than an argument that BellSouth does not want to comply with core federal interconnection requirements. A state tariff cannot be utilized to evade federal obligations.

(b) BellSouth’s Intercarrier Compensation Defense. About six weeks ago, BellSouth began advancing a second defense for its new interconnection policy. BellSouth stated in its March 20, 2002 Revised Carrier Notification:

²² *Developing a Unified Intercarrier Compensation Regime*, Docket No. 01-92, FCC 01-132, 16 FCC Rcd 9619, 9652 ¶ 115 (2001).

²³ BellSouth Interconnection Services, Revised Carrier Notification SN91082844 (March 20, 2002), *appended as* Exhibit E.

BellSouth does not agree with establishment of this arrangement, as to do so causes BellSouth and/or the third-party telecommunications carrier to improperly calculate inter-carrier compensation.”

BellSouth further told the Commission, also on March 20, 2002, that it is “entitled to access charges” from CMRS carriers for handling intraMTA traffic originating on the networks of other ILECs.²⁵

BellSouth’s new argument, one unsupported by any law or precedent, ~~suffers~~ from two fatal flaws. First, at issue are intraMTA calls that originate on LEC networks and terminate on CMRS networks. Commission ~~rules~~ specify that such intraMTA calls are subject to reciprocal compensation, not access ~~charges~~.²⁶ The Commission has specifically stated:

[T]raffic to or from a CMRS network that originates and terminates within the same MTA is subject to transport and termination rates ~~under~~ section 251(b)(5), rather than interstate and intrastate access charges?”

The Commission reiterated only one year ago that “reciprocal compensation, rather than interstate or intrastate access charges, applies to LEC-CMRS traffic that originates and terminates within the same Major Trading Area (MTA).”²⁸

Second, intercarrier compensation is currently governed by the “calling-party’s-network-pays” (“CPNP”) principle. With CPNP, “the calling party’s ~~carrier~~, whether a LEC, IXC or

²⁴ BellSouth Interconnection Services, Revised ~~Carrier Notification~~ SN91082844 (March 20, 2002), ~~appended as~~ Exhibit E. BellSouth’s ~~concern~~ over the ~~ability~~ of other ILECs to recover compensation is perplexing, since in proposing to send to other ILECs (*e.g.*, ALLTEL) ~~calls~~ not involving their customers, BellSouth never explains how other ILECs such as ALLTEL would ~~recover~~ their ~~call~~ handling costs from the originating carrier.

²⁵ BellSouth ~~Ex~~ Parte Letter, Docket 02-35, at 2 (March 20, 2002).

²⁶ See 47 U.S.C. §§ 51.701(b)(2), 51.703.

²⁷ *First Local Competition Order*, 11 FCC Rcd 15499, 16014 ¶ 1036 (1996).

²⁸ *Intercarrier Compensation for ISP-Bound Traffic*, 16 FCC Rcd 9151 at ¶ 47 (2001).

CMRS, . . . compensate[s] the called party's carrier for terminating the call."²⁹ Sprint recognizes that BellSouth should be compensated for transporting a call from the originating network to Sprint. However, under the CPNP regime in place today, BellSouth must seek compensation from the originating carrier, not the destination carrier. Moreover, a large portion of the traffic at issue is traffic originating on the BellSouth network and terminating directly to Sprint, with no intervening carrier. The fact that BellSouth's billing systems do not properly record this traffic is not a justification for imposing new interconnection costs and routing restrictions on other carriers.

In summary, the reasons BellSouth recites for its new interconnection policy are frivolous.

III. DISCUSSION

A. **RBOCs DO NOT HAVE A RIGHT TO DETERMINE THE TYPE OF INTERCONNECTION UTILIZED BY OTHER CARRIERS**

Congress has recognized that carriers may interconnect with each other either directly or indirectly." In this regard, the Commission has explicitly ruled that CMRS carrier have no obligation to interconnect directly with other carriers." The Commission **has** further held that it is the interconnecting carriers, not the ILEC, that can choose the type of interconnection "based

²⁹ See *Unified Intercarrier Compensation NPRM*, 16 FCC Rcd 9610, 9614 ¶ 9 (2001). "CPNP regimes may be viewed as implicitly embracing the premise that the originating caller receives all the benefits of a call and should, therefore, **bear** the costs of **both** originating and termination." *Id.* at 9624 ¶ 37. The FCC is currently reconsidering this premise and examining whether the CPNP regime should be replaced with bill-and-keep. See *id.*

³⁰ See 47 U.S.C. § 251(a)(1) ("Each telecommunications carrier has the duty to interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers.").

³¹ See *First Local Competition Order*, 11 FCC Rcd 15499, 15991 ¶ 997 (1996)

upon their most efficient technical and economic choices,”* expressly ruling that “a LEC is obligated to provide a CMRS provider with the interconnection of its choice upon its request.”

[A CMRS] carrier is entitled to choose the most efficient form of interconnection for its network, and the BOCs may not dictate an RCCs’ [Radio Common Carriers’] type of interconnection.³⁴

In this regard, Commission rules explicitly state that a “local exchange carrier *must* provide the type of interconnection reasonably requested by a mobile carrier.”³⁵

If CMRS carriers can choose to interconnect indirectly with other carriers, it necessarily follows that an RBOC cannot force a CMRS carrier to interconnect directly with another carrier. Yet, as discussed above, this is precisely the right that BellSouth is claiming to possess. If BellSouth routes traffic destined to Sprint to another ILEC (e.g., ALLTEL), the only way that Sprint customers with telephone numbers rated in the ILEC rate center will receive their calls is if Sprint interconnects directly with the ILEC.

B. BELL SOUTH’S NEW INTERCONNECTION POLICY CONTRAVENES THE COMMISSION’S NUMBERING RULES

Congress gave this Commission “exclusive jurisdiction” over the North American Numbering Plan (“NANP”), but further authorized the Commission to delegate “any or all of such jurisdiction.”³⁶ The Commission has delegated to NeuStar the authority to administer and implement the NANP.” The Commission **has** adopted rules governing the circumstances under

³² *Id.*

³³ *Bowles v. United Telephone*, 12 FCC Rcd 9840, 9849 ¶ 15 (1997).

³⁴ *Third Radio Common Carrier Order*, 4 FCC Rcd at 2369 2376 ¶ 41 (1989).

³⁵ 47 C.F.R. § 20.11(a) (emphasis added).

³⁶ 47 U.S.C. § 251(3)(1).

³⁷ *See Request of Lockheed Martin and Warburg, Pincus for Review of the Transfer of the Lockheed Martin Communications Industry Services Business*, 14 FCC Rcd 19792 (1999).

which carriers may obtain numbering **resources**,³⁸ and it directed NeuStar to comply with “published industry numbering resource administration guidelines and Commission order and regulation~.”~Implicit within this structure is that all **carriers** will load in their networks numbering resources that NeuStar awards **after** determining that the applicant has met all Commission requirements. In this regard, courts have confirmed that the Commission’s exclusive jurisdiction over numbering administration includes the authority to implement a uniform numbering sys-

BellSouth, with its new interconnection policy, has decided that the decisions made by **NeuStar** are no longer relevant because BellSouth unilaterally claims the authority to make judgments independent of NeuStar (e.g., whether it will honor **the numbering** resources acquired by other carriers). BellSouth has further determined that it will make its independent decisions using factors not specified in the Commission’s numbering rules.

For example, NeuStar routinely awards NXX codes to CMRS carriers with different rating and routing points, as this arrangement is expressly permitted by industry standards! **BellSouth** **has** refused to load these codes in its network because it has made the independent judgment that this arrangement constitutes “inappropriate NXX rating.” **The** Commission should declare that BellSouth’s new interconnection policy is unlawful and inconsistent with the Commission’s numbering rules.

³⁸ 47 U.S.C. § 52.15(g).

³⁹ See *id.* at § 52.15(d).

⁴⁰ See *New York v. FCC*, 267 F.3d 91, 103-04 (2d Cir. 2001)(FCC authority extends to local dialing patterns).

⁴¹ See note ...*supra*.

⁴² BellSouth Ex Parte ~~Letter~~, Docket No. 02-35, at 2 (March 20, 2001).

C. BELL SOUTH'S PROPOSAL IS UNREASONABLY DISCRIMINATORY AND CONTRAVENES SECTION 202(A) OF THE ACT

BellSouth today routes all calls it receives at one of its tandem switches directly to the destination carrier – regardless of the rating point associated with the number being called. Under its proposal, BellSouth would no longer route calls directly to CMRS carriers if their customers happen to have a telephone number rated in an “independent” ILEC rate center; it would instead route calls to the independent ILEC, which would then assume responsibility to forward the call to the designated CMRS carrier. In contrast, BellSouth would continue to route calls to an “independent” ILEC directly to the ILEC, without use of any intermediary carrier.

Section 202(a) states that it “shall be unlawful for any common carrier to make any unjust or unreasonable discrimination in . . . practices . . . [or] services.” BellSouth’s proposal to route calls differently based on the identity of the destination carrier (*i.e.*, whether it is an ILEC or a non-ILEC) is unreasonably discriminatory and contravenes Sections 202(a) of the Act.

D. RBOCs MAY NOT CHANGE THEIR TRANSIT SERVICES WITHOUT COMPLYING WITH SECTION 214 OF THE ACT

Section 214(a) of the Communications Act provides that “[n]o carrier shall discontinue, reduce, or impair service. . . ~~unless~~ and ~~until~~ there shall ~~first~~ have been obtained from the Commission a certificate that neither the present nor future public convenience and necessity will be adversely affected thereby.”⁴⁴ BellSouth’s proposal – needlessly involving additional intermediary carriers for certain calls – would constitute a discontinuance, reduction or impairment of

⁴³ 47 U.S.C. § 202(a).

⁴⁴ 47 U.S.C. § 214(a). In other situations, BellSouth has acknowledged that it must obtain an FCC certificate before it may discontinue, reduce or impair its services. *See, e.g.*, Public Notice, Comments Invited on BellSouth Telecommunications Application to Discontinue Domestic Telecommunications Services, NSD File No. W-P-D-553, DA 02-122 (Jan. 14, 2002).

service. Accordingly, BellSouth may not implement its proposal without first obtaining from the Commission a certificate that “neither the present nor future public convenience and necessity will be adversely affected thereby.”

E. STATE COMMISSIONS ARE PREEMPTED FROM ADDRESSING THIS ROUTING ISSUE

BellSouth’s initial position was that it had the right to unilaterally decide for itself **how** calls destined to other carriers should be **routed**.⁴⁵ BellSouth has since modified its position, stating more recently that it will “rais[e] the issue with the appropriate state commission for **de-termination**.”⁴⁶ Re-litigating the identical **routing** issue in nine different states is neither efficient nor cost effective. Re-litigating the identical routing issue in nine different states also **risks** the possibility that different state commissions will reach different results.

In fact, state commissions do not have regulatory authority to address the routing of traffic, at least to CMRS carriers. The Commission has preempted states over **LEC-CMRS** interconnection, holding that it possesses “plenary jurisdiction . . . over the physical plant **used** in the interconnection of cellular carriers”:

Cellular physical plant is inseparable and thus Section 2(b) does not limit our jurisdiction in this area. Like telephone terminal equipment, the interconnected **trunk lines** and equipment of a cellular system are used to **make** both interstate and intrastate calls. Moreover, it would not be feasible to require one set of *trunk* lines and equipment for intrastate calls and another for interstate calls.⁴⁷

⁴⁵ See BellSouth Interconnection Services, Carrier Notification SN91082844 (Jan. 30, 2002), *appended as Exhibit C*.

⁴⁶ BellSouth Interconnection Services, Revised Carrier Notification SN9108244 (March 20, 2002), *appended as Exhibit D*.

⁴⁷ *Second Radio Common Carrier Order*, 2 FCC Rcd 2910, 2912 ¶ 17 (1987). See also *Second CMRS Order*, 9 FCC Rcd 1411, 1498 ¶ 230 (1994).

The Commission further noted that "any state regulation in ~~this~~ area would substantially affect the development of interstate communications; without a nationwide policy governing the reasonable interconnection of cellular systems, many of those systems may be barred from the interstate public telephone network. A nationwide policy will also help prevent increased costs and diminished signal quality among cellular systems."*

Congress established ~~this~~ Commission for a core purpose: "to make available . . . a rapid, efficient, nation-wide, and world-wide wire and radio communication **service**."⁴⁹ This charter can be achieved only if the Commission intervenes and reaffirms a national interconnection policy.

F. THE COMMISSION SHOULD BE CONCERNED ABOUT BELL SOUTH'S ARBITRARY EXERCISE OF ITS MONOPOLY POWER

The Commission should be concerned by BellSouth's ~~arbitrary~~ exercise of monopoly power. BellSouth does not like the long-standing industry convention, authorized by industry standards, whereby CMRS carriers may designate different rating and routing points. ~~Last~~ year, BellSouth asked the Commission to change the current practice and to prohibit CMRS carriers from establishing different rating and routing **points**.⁵⁰ However, rather ~~than~~ wait for the Commission to enter its decision (if only to learn whether the Commission would agree with BellSouth and adopt the changes that BellSouth was advocating), BellSouth instead decided to take matters into its own hands – by refusing to load ~~the~~ NXX codes obtained by Sprint and other CMRS carriers.

⁴⁸ *Id.*

⁴⁹ 47 U.S.C. § 151.

⁵⁰ See BellSouth Reply Comments, Docket No. 01-92, at 15-17 (Nov. 5, 2001).

In March 2002, several CMRS carriers objected to BellSouth's new policy in connection with its Section 271 application involving Georgia and Louisiana. Two weeks later, BellSouth decided to "revise" its policy, stating that it would resume loading the NXX codes that CMRS carriers obtain pursuant to the Commission's numbering **rules**, but that it will "rais[e] the issue with the appropriate state **commission**."⁵¹ BellSouth would thus force carriers that are struggling to become profitable because of the intensity of competition to **re-litigate** the identical issue on a state-by-state basis. And, BellSouth would impose this costly state-by-state procedure on other carriers even though BellSouth readily acknowledges that "issues closely related to this one **are** currently *pending* ~~in~~ another [FCC] docket, and that is where they should be *resolved*."⁵²

As Sprint noted above, the only rational explanation for BellSouth's changing position is that BellSouth hopes to obtain a cost advantage in the ~~market~~ – not by becoming more efficient, but by increasing the costs incurred by other carriers.

⁵¹ Exhibit E.

⁵² BellSouth Ex Parte ~~Letter~~, Docket No. 02-35, at 4 (March 20, 2002)(**emphasis added**).

IV. CONCLUSION

For the foregoing reasons, Sprint respectfully requests that the Commission reaffirm that all telecommunications carriers have an obligation under the Communications Act to timely load in their networks numbering resources obtained by carriers and to use the rating and routing points that the carrier holding the numbering resources designates.

Respectfully submitted,

SPRINT CORPORATION
(on behalf of its Wireless Division)



Luisa L. Lancetti
Vice President, PCS Regulatory Affairs
401 9th Street, N.W., Suite 400
Washington, D.C. 20004
202-585-1923

Charles W. McKee
Monica M. Barone
6391 Sprint Parkway, 2d Floor
Mail Stop: KSOPHT0101-Z2060
Overland Park, KS 66251
913-315-9134

May 9, 2002

Exhibit A

**Letter from ~~Bill Pruitt~~, Sprint,
to Randy Ham, BellSouth (June 8,2001)**



SPRINT PCS"

Bill Pruitt
 Carrier Interconnection Management
 Sprint PCS
 11880 College Blvd.
 Mailstop KSOPAM0101
 Overland Park, KS 66210-2035
 Phone: (913) 315-2755
 Fax: (913) 315-2531
 E-mail Address: bpruit01@sprintspectrum.com

June 8.2001

Mr. Randy Ham
 Manager-Wireless Interconnection
 BellSouth Interconnection, Room E3D1
 2535 Colonnade Parkway, South
 Birmingham, Alabama 35243

Dear Randy:

This letter is a formal request for BellSouth Telecommunications (BST) to process the routing request associated with the 904-408 NPA/NXX required for Sprint PCS's entry into the Macclenny, Florida service area. As you know, the 904-408 NPA/NXX is rate centered at the ~~Northeast~~ Florida Telephone Company Macclenny central office (MCLNFLXZDS1). Sprint PCS has asked that BST transit traffic to and from the Macclenny office through its Jacksonville 05T tandem. The original effective date for this order was March 03, 2001. However, BST has refused to perform the translations that would allow the correct routing. The reason given by BST is that the implementation of this arrangement would violate its Virtual Designated Exchange (VDE) Tariff and other rules and regulations.

With regard to BST's reference to the M E tariff, it is clear that this tariff does not apply to the arrangement requested by Sprint PCS. The current and the proposed Interconnection Agreement between BST and Sprint PCS both state that the "Type 1, Type 2A and Type 2B interconnection arrangements described in BST's General Subscriber Services Tariff, Section A35, or in the case of North Carolina, in the North Carolina Connection and Traffic Interchange Agreement effective June 30, 1994, as amended, may also be purchased pursuant to this Agreement provided, however, *that such interconnection arrangements shall be provided at the rates terms and conditions set forth in this Agreement*". (Emphasis added) This language clearly states that Sprint PCS may purchase the interconnection arrangements described in §A35 but does not commit Sprint PCS to any "rates, terms or conditions" other than those found in the Agreement.

Mr. Randy Ham
 June 8.2001
 Page 2

EST has also stated its belief that the Current and the recently negotiated interconnection agreements do not require BST to route Sprint PCS NXXs through the BST tandem to the independent telephone company and offices that subtend the tandem. These Agreements, however, do in fact contain specific language regarding Wireless Intermediary Traffic:

"1. Definitions Wireless Intermediary Traffic. Wireless Intermediary traffic is defined as the delivery, pursuant to this agreement or Commission directive of local or toll (using traditional landline definitions) traffic to or from a local exchange carrier other than BellSouth; a CLEC; or another telecommunications company such as a CMRS provider other than Sprint PCS through the network of BellSouth or Sprint PCS from or to an end user of BellSouth or Sprint PCS.

6.1.1.1 ...BellSouth agrees to participate in Meet Point Billing for traffic which transits its network when both the originating and terminating parties participate in Meet Point Billing with BellSouth. Traffic from a network which does not participate in Meet Point Billing will be delivered by Bell South, however, call records for traffic originated and/or terminated by a non-Meet Point Billing network will not be delivered to the to the originating and/or terminating network

6.1.1.2 ...Meet Point Billing, as defined in Section 6.1.1.1 above, under this Section will result in Sprint PCS compensating BellSouth at the intermediate rate of \$0.002 for traffic delivered to BellSouth's network, which terminates to a third party network" (Emphasis added).

There are no exceptions identified in the Agreement that would give BST the right to deny a request by Sprint PCS to route a Sprint PCS NPA/NXX to a given independent company utilizing the negotiated intermediary service. The fact that the NPA/NXX being routed has a rate center associated with an independent company is irrelevant from an Interconnection Agreement perspective. BST has already agreed to deliver these intermediary calls.

BST is asserting that Sprint PCS must have a direct connection to the switch of a telecommunications carriers subtending a BST tandem if one of the Sprint PCS NPA/NXXs uses a rate center associated with that subtending carrier's geographic service area. The NPA/NXXs at issue have not been issued to BST. They were ordered by, issued to, and are maintained by Sprint PCS. BST's tariffs, by definition, can only apply to BST's NPA/NXXs. EST has absolutely no authority under the Act, the FCC's implementing Orders and Rules or any other applicable regulations to mandate a direct connection between Sprint PCS and third party LECs. In fact, 47 C.F.R. §51.100(a)(3) specifically states that each telecommunications carrier has the duty "to interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers." There is no basis to deny Sprint PCS the indirect interconnections that are expressly authorized under the law,

Mr. Randy Ham

June 8, 2001

Page 3

BST's refusal to do the translation work to route the Sprint PCS 904-408 NPA/NXX is delaying Sprint PCS's entry into this market which and is thereby putting Sprint PCS at a competitive disadvantage. This letter is a formal request for BST to complete the requested routing immediately so Sprint PCS may begin to offer service in the Macclenny service area.

Randy, I would like to resolve this issue is expeditiously and with is little conflict as we can. The Sprint PCS Telephone Number Administration group is quite frustrated with BST's Code Administrators and do not understand why BST is refusing our routing request as it is a standard type of request that BST (and other RBOCs and LECs) have performed in the past and continue to perform. I would appreciate your help in resolving this dispute and in receiving BST's formal response to this request by June 18.2001.

Sincerely,

A handwritten signature in cursive script, reading "Bill Pruitt". The signature is written in black ink on a white background.

Exhibit B

**Letter from Randy Ham, BellSouth,
to Bill Pruitt, Sprint (July 11,2001)**



July 11, 2001

Mr. Bill Pruitt
Carrier Interconnection Management
Sprint PCS
11880 College Blvd.
Overland Park, KS 66210-2035

Dear Bill:

In your letter of June 8, 2001 you formally requested that BellSouth Telecommunications, Inc. (BST) process your code memo request to activate NPA/NXX 904-408. This code memo request seeks to activate this NPA/NXX with a third party Incumbent Local Exchange Carrier (ILEC) rate center. The rate center requested, via this code memo, is Northeast Florida Telephone Company's Macclenny exchange service area. Additionally the specified code memo also asks BST to establish a routing center Located in BST's Jacksonville exchange service area not the Northeast Florida Telephone Company, Macclenny exchange service area.

You also stated in your June 8, 2001 letter that "Sprint PCS has asked that BST transit traffic to and from the Macclenny office through its Jacksonville ST tandem". Clearly BST will honor any request that, when established, provides BST with the opportunity to transit traffic through its tandem when the originating party is one carrier and the terminating carrier is another. However when routing of traffic is such that calls from the Public Switched Telephone Network (PSTN), due to the routing requested for the NPA/NXX, never terminate to the third party network, in this case Northeast Florida Telephone Company, transit is not possible. Further, by your code memo establishing a rate center in the Northeast Florida Telephone Company and a routing center in BST, you cause normal local and toll options, associated with landline end user calls, to be rated and routed incorrectly. In this arrangement you also place BST in the position of having to rate calls based on tariffs for Northeast Florida Telephone Company which according to all known regulation is illegal

We agree that the NPA/NXX belongs to Sprint PCS. We also agree that you have the right to define the rating and routing centers for that NPA/NXX. However we do not agree that you can do so in a fashion that causes either BST or Northeast Florida Telephone Company to violate regulations under which they operate. Review of the guidelines provided by NeuStar, managers of the national code administration system, shows that applications of rating and routing centers must meet all regulatory requirements.

BST will not support code memo applications where the rate center is in a company other than BST and the routing center is in BST. This is applied uniformly across the Commercial Mobile Radio Service (CMRS) and Competitive Local Exchange Carrier (CLEC) markets. Based on this position and the reasons stated above BST must decline to activate the code memo for NPA/NXX 904-408 as it is currently configured.

Sincerely

A handwritten signature in black ink, appearing to read "Randy J. Ham".

Randy J. Ham
Managing Director - Wireless Interconnection

Exhibit C

**BellSouth Interconnection Services,
Carrier Notification SN91082844 (January 30, 2002)**

BellSouth Interconnection Services

675 West Peachtree Street
Atlanta, Georgia 30308-7575

Carrier Notification**SN91082844**

Date: January 30, 2002

To: All Telecommunications Carriers Operating In BellSouth Telecommunications Inc.
Service Areas

Subject: All Telecommunications Carriers - Activation of NPA/NXX Codes with Rate Centers
in Non-BellSouth Service Areas

Increasingly, telecommunications carriers are requesting activation of NPNXX arrangements whereby routing of traffic is established within BellSouth service areas and rating of such traffic is established with a third-party telecommunications carrier's rate center service area. The third-party rate centers are for service areas outside of BellSouth's franchised service area in which BellSouth is licensed to provide service.

Routing of traffic to/from these NPA/NXXs, with a third-party rate center, is such that calls from/to the Public Switched Telephone Network (PSTN) should route to/from the third-party rate center network upon which the call is rated. Issues arise when the following occur:

- Routing of traffic to these NPA/NXXs, with a third-party rate center, is such that calls from the Public Switched Telephone Network (PSTN) never route to the third-party rate center network upon which the call is rated.
- Calls originating from these NPA/NXXs route over the BellSouth network for termination rather than routing over the third-party telecommunications carrier network, as they should.

Further, by this arrangement establishing a rate center in the third-party's service area and a routing center in BellSouth, normal local and toll options, associated with landline end-user calls, will be rated in a manner inconsistent with the routing of the call. This arrangement places BellSouth and the third-party telecommunications carrier in the position of having to rate calls, based on tariffs for the third party, as though the calls have actually originated from or terminated to the third-party telecommunications carrier, which is contrary to current regulations.

BellSouth does not agree with establishment of this arrangement, as to do so causes BellSouth and/or the third-party telecommunications carrier to violate state commission regulations under which they operate. Review of the guidelines provided by NeuStar, which manages the national code administration system function, shows that applications of rating and routing centers must meet all regulatory requirements.

BellSouth will not support activation of NPNXX applications where the rate center is in a company other than BellSouth and the routing center is in BellSouth. This position is applied uniformly across all telecommunications carrier markets.

Please contact your BellSouth account team representative with any questions,

Sincerely,

ORIGINAL SIGNED BY JIM BRINKLEY

**Jim Brinkley – Senior Director
BellSouth Interconnection Services**

Exhibit D

**BellSouth Interconnection Services, Revised
Carrier Notification SN91082947 (March 20,2002)**

BellSouth Interconnection Services
675 West Peachtree Street
Atlanta, Georgia 30375

Carrier Notification
SN91082947

Date: March 20, 2002

To: All Telecommunications Carriers Operating In BellSouth Telecommunications Inc.
Service Areas

Subject: All Telecommunications Carriers – REVISION TO **SN91082844**: Activation of
NPA/NXX Codes with Rate Centers in Non-BellSouth Service Areas.

This is to advise that Carrier Notification Letter **SN91082844**, originally posted on January 30,
2002, has been revised.

Please refer the revised letter for details.

Sincerely,

ORIGINAL SIGNED BY JIM BRINKLEY

Jim Brinkley – Senior Director
BellSouth Interconnection Services

Exhibit E

**BellSouth Interconnection Services, Revised
Carrier Notification SN91082844 (March 20,2002)**

BellSouth Interconnection Services
675 West Peachtree Street
Atlanta, Georgia 30375

Carrier Notification
SN91082844

Date: March 20, 2002

To: All Telecommunications Carriers Operating In BellSouth Telecommunications Inc. Service Areas

Subject: All Telecommunications Carriers – REVISED: Activation of NPNXX Codes with Rate Centers in Non-BellSouth Service Areas (Originally posted on January 30, 2002)

Increasingly, telecommunications carriers are requesting activation of NPA/NXX arrangements whereby routing of traffic is established within BellSouth service areas and rating of such traffic is established with a third-party telecommunications carrier's rate center service area. The third-party rate centers are for service areas outside of BellSouth's franchised service area in which BellSouth is licensed to provide service.

Routing of traffic to/from these NPA/NXXs, which are established with a third-party rate center, is such that calls from/to the Public Switched Telephone Network (PSTN) should route to/from the third-party rate center network upon which the call is rated. Issues arise when the following occur:

- Routing of traffic to these NPA/NXXs, which are established with a third-party rate center, results in calls from the Public Switched Telephone Network (PSTN) that never route to the third-party rate center network upon which the call is rated.
- Calls originating from these NPA/NXXs route over the BellSouth network for termination rather than routing over the third-party telecommunications carrier network, as they should.

Further, by this arrangement of establishing a rate center in the third-party's service area and a routing center in BellSouth, normal local and toll options, associated with landline end-user calls, will be rated in a manner inconsistent with the actual routing of the call. This arrangement places BellSouth and the third-party telecommunications carrier in the position of having to rate calls, based on tariffs for the third party, as though the calls have actually originated from or terminated to the third-party telecommunications carrier, which is contrary to current regulations and causes compensation inaccuracies between the involved carriers.

BellSouth does not agree with establishment of this arrangement, as to do so causes BellSouth and/or the third-party telecommunications carrier to improperly calculate inter-carrier compensation and to violate state commission regulations under which they operate. Review of the guidelines provided by NeuStar, which manages the national code administration system function, shows that applications of rating and routing centers must meet all regulatory requirements.

If this arrangement is utilized, BellSouth will process the code memorandum request, while at the same time raising the issue with the appropriate state commission for determination.

Please contact your BellSouth account team representative with any questions.

Sincerely,

ORIGINAL SIGNED BY JIM BRINKLEY

Jim Brinkley – Senior Director
BellSouth Interconnection Services